

**PRODUCED DOCUMENTS**  
**REFERENCED BY**  
**MORRISON DECLARATION**

SEXY HAIR CONCEPTS, LLC  
Sexy Hair Brands - INCOME STATEMENT

	2007 Est	2006 Actual	2005 Actual	2004 Actual	2003 Actual	2002 Actual	2001 Actual	2000 Actual
Net Sales - SH (Distributor Price)	60,000,000	51,308,000	38,890,000	32,917,000	28,428,000	22,321,000	1,538,000	932,000
Net Sales - SH (Retail Price)	218,181,818	186,574,545	141,418,182	119,698,182	103,374,545	81,167,233	49,239,091	33,901,818
<b>Selling Expenses:</b>								
Cooperative advertising	915,437	585,545	585,844	598,951				
Detailing	231,324	151,292	219,322	232,764				
Education - Distributors	515,201	507,097	534,920	440,789				
Education - Spiffs	42,000	21,190	27,629	134,498				
Sales Incentives	211,760	209,408	147,245	92,313				
Sales Literature - Printing	203,637	279,715	297,309	155,865				
Sales Meetings	371,660	445,117	338,874	281,038				
Sales Samples	980,841	852,447	593,579	499,000				
Tradeshows - Distributor	330,702	297,661	633,306	460,630				
Total Selling Expenses	3,732,393	3,412,472	3,380,027	2,893,847				
<b>Marketing Expenses:</b>								
Advertising Media	1,464,000	1,019,779	577,387	595,484				
Artwork - Production/Supplies	134,000	62,671	88,354	87,570				
Dues and Subscriptions	2,000	1,504	807	8,278				
Education - Corporate	240,000	304,190	375,279	316,539				
POP Materials and Displays	35,000	33,240	45,768	56,948				
Promotions/Samples	78,000	36,796	66,954	0				
Publicity Expenses	153,000	352,601	181,764	103,254				
Publicity Fees	471,000	238,657	81,614	88,812				
Research & Development	60,000	93,721	43,904	60,000				
Tradeshows - Major	432,000	18,665	60,123	20,448				
Academy	90,000	502,662	313,490	716,600				
Website	52,000	130,327	60,748	0				
Total Marketing Expenses	3,253,000	2,861,240	1,933,554	2,051,432				
Total Selling and Marketing Expense	6,985,393	6,273,712	5,313,581	4,945,279				

HIGHLY  
CONFIDENTIAL

SHNY 0001



Page 1 of 2

**Metzger, John (Phila)**

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Here are the Advertising and P.R. expense numbers for the last 5 years :

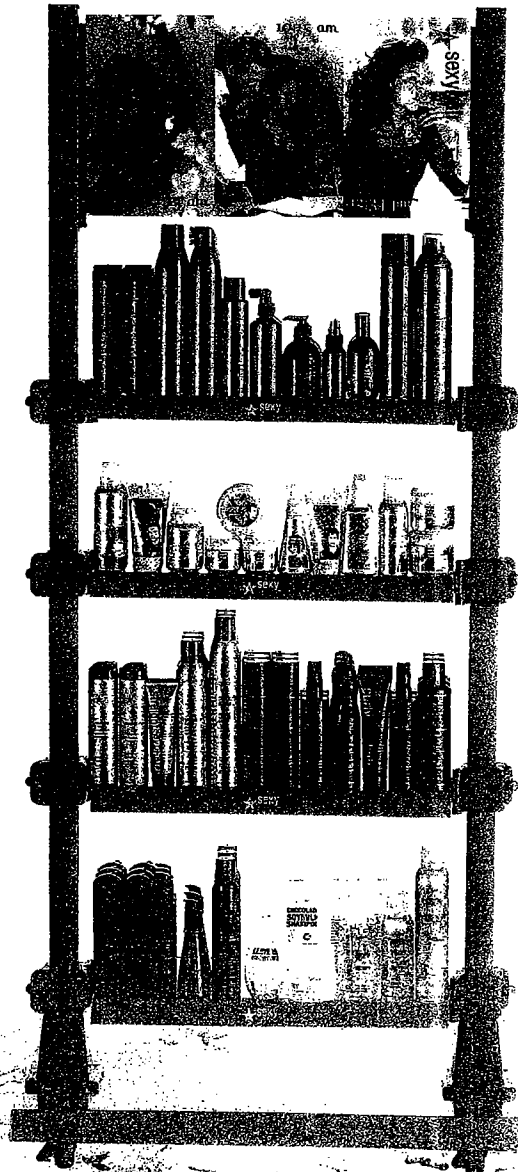
	2003	2004	2005	2006	2007
Advertising	\$680 K	\$595K	\$577K	\$1.019mil	\$1.575mil
Public Relations	\$147K	\$118K	\$125K	\$352K	\$385K

**HIGHLY  
CONFIDENTIAL**  
SHNY 0003



## RACK DEAL 2006

PLEASE CONTACT YOUR DISTRIBUTOR FOR DEAL INFORMATION AND PRICING.



SHNY 00306

*you can take me anywhere*

## CURL POWER CURL ENHANCER

**Purchase:**

1 – Curly Sexy Hair Curl Power Curl Enhancer 8.5 oz

**Receive FREE:**

1 – Big Sexy Hair Travel Sized Spray & Play Hairspray 1.5oz

1 – Travel accessories bag

- |                              |                            |
|------------------------------|----------------------------|
| • U.S. Salon Price: \$6.88   | • CN Salon Price: \$11.24  |
| • U.S. Salon Value: \$9.38   | • CN Salon Value: \$15.33  |
| • U.S. Retail Price: \$13.75 | • CN Retail Price: \$18.49 |
| • U.S. Retail Value: \$18.75 | • CN Retail Value: \$25.22 |

**SAVE 27%**

Products will be packed in a travel bag.



## STRAIGHT SMOOTH & SEAL

**Purchase:**

1 – Straight Sexy Hair Smooth & Seal Aerated Anti-Frizz Spray 8.8 oz

**Receive FREE:**

1 – Big Sexy Hair Travel Sized Spray & Play Hairspray 1.5oz

1 – Travel accessories bag

- |                              |                            |
|------------------------------|----------------------------|
| • U.S. Salon Price: \$8.75   | • CN Salon Price: \$14.31  |
| • U.S. Salon Value: \$11.25  | • CN Salon Value: \$18.40  |
| • U.S. Retail Price: \$17.50 | • CN Retail Price: \$23.54 |
| • U.S. Retail Value: \$22.50 | • CN Retail Value: \$30.27 |

**SAVE 22%**

Products will be packed in a travel bag.



SHNY 00312

## SHORT HARD UP GEL

**Purchase:**

1 – Short Sexy Hair Hard Up Gel 5.1 fl oz

**Receive FREE:**

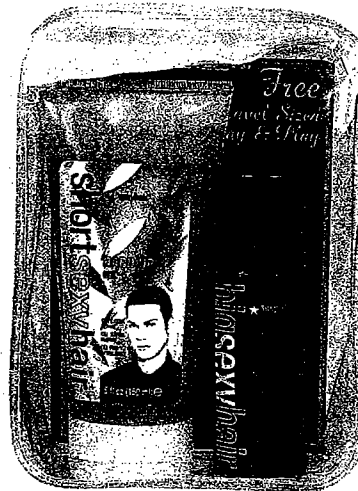
1 – Big Sexy Hair Travel Sized Spray & Play Hairspray 1.5oz

1 – Travel accessories bag

- |                              |                            |
|------------------------------|----------------------------|
| • U.S. Salon Price: \$6.75   | • CN Salon Price: \$11.04  |
| • U.S. Salon Value: \$9.25   | • CN Salon Value: \$15.13  |
| • U.S. Retail Price: \$13.50 | • CN Retail Price: \$18.16 |
| • U.S. Retail Value: \$18.50 | • CN Retail Value: \$24.89 |

**SAVE 27%**

Products will be packed in a travel bag.



## SOY TRI-WHEAT LEAVE IN

**Purchase:**

1 – Healthy Sexy Hair Soy Tri-Wheat Leave-In 8.5 fl oz

**Receive FREE:**

1 – Big Sexy Hair Travel Sized Spray & Play Hairspray 1.5oz

1 – Travel accessories bag

- |                              |                            |
|------------------------------|----------------------------|
| • U.S. Salon Price: \$6.25   | • CN Salon Price: \$10.22  |
| • U.S. Salon Value: \$8.75   | • CN Salon Value: \$14.31  |
| • U.S. Retail Price: \$12.50 | • CN Retail Price: \$16.81 |
| • U.S. Retail Value: \$17.50 | • CN Retail Value: \$23.54 |

**SAVE 29%**

Products will be packed in a travel bag.



SHNY 00313

*Additional deal on back...*

LOSE EVERY EXTRA POUND! p. 194

**SELF**

YOU  
AT YOUR  
BEST

## Slim Down, Tone Up, Show Off!

An Easy Plan Gets  
Results in 1 Month

**GLOWING SKIN!**  
No More Pimples,  
Lines or Concealer

**Get the Paycheck  
You Deserve** How, p. 212

**STOP CANCER  
BEFORE IT STARTS**

**Have Vacation Sex**  
Without Leaving Home

## Stress Less, Relax More!

24 Ahhh-Inspiring Ideas

**WIN!**  
17 Amazing  
Spa Trips at  
Self.com

American Idol's  
**Katharine  
McPhee**  
On Her New  
Body Attitude

**All-Natural Fixes  
For Back Pain  
And Other Aches**

SHNY 00345

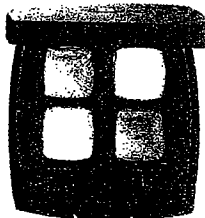
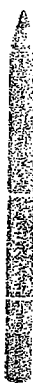


## HER WAY



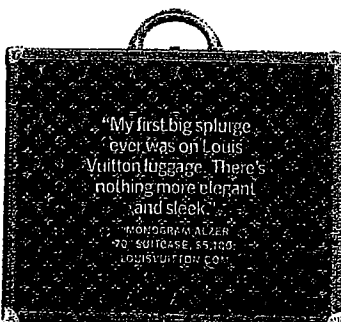
SILK MACHANE  
100 574, BAHAMA  
REPUBLIC, 800-277-  
2532 FOR LOCATIONS  
DIAMOND STUDDO  
100 GOLD LAMPING  
\$10,000, IRINE  
NEUWHIT  
JAMES, NASHVILLE  
615-292-2126

"With makeup, I tend to focus on my eyes. I like to fill in my brows with a pencil, then use lots of mascara and pretty, neutral-toned shadows—Chanel's are just gorgeous."



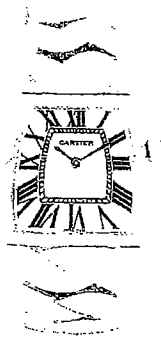
CHANEL QUADRA  
EYESHADOW IN  
SHIMMERING  
DUNES, \$55,  
CHANEL.COM

L'ORÉAL PARIS  
BROW STYLIST  
CUSTOM SHAPING  
PENCIL, \$7  
FOR TWO  
DRUGSTORES



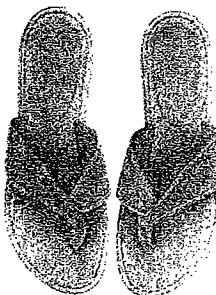
"My first big splurge ever was on Louis Vuitton luggage. There's nothing more elegant and sleek."

MONOGRAM ALZER  
70" SUITCASE, \$5,700  
LOUISVUITTON.COM



"Right now, I'm loving all things rose gold, especially this Cartier watch. It's both classic and luxe."

18K ROSE GOLD "LA DORÉ" WATCH,  
\$22,600, CARTIER,  
800-227-8437 FOR LOCATIONS



"One of my fans sent me the most amazing pair of leather flip-flops. They're so comfortable—I've been wearing them with everything."

LEATHER "ALEXANDRA" THONG  
FLATS, \$294, MELANIE DIZON, LULU'S  
MANHATTAN BEACH, CA 310-798-1577



"I'm obsessed with the Big Sexy Hair product Flip It Over. It's hairspray, but with a putty consistency, and it gives my hair a cool, messy-curly look."

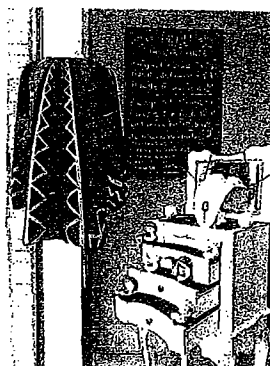
DIG SEXY HAIR FLIP IT OVER  
FULL & WILD SPRAY, \$17  
SEXYHAIR.COM FOR LOCATIONS



"Forever 21 has a great selection of really cute, of-the-moment tops at the most incredible prices."

"The L.A. boutique Tryst sells the best variety of unique items, from imported jeans to beautiful shoes."

TRYST 32244  
VENTURA BLVD  
L.A. 818-285-7978



"David Yurman makes these chunky rings that I adore. I like how they add a little edge to girly outfits."

DAVID YURMAN 100 100-1001  
RING, \$1,000, DAVID YURMAN  
FOR MORE LOCATIONS

"Wearing a bright string bikini to the beach always makes me feel sexy and good about my body."

BIKINI TOP, \$15, BOTTOM  
\$14, VICTORIA'S SECRET.COM

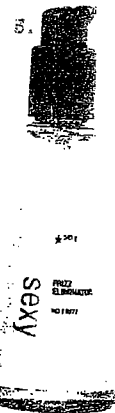


advertisement

**Sexy Hair**... Separate hair into small sections. Spray with **Curly Sexy Hair 24/7 Instant-Set Curling Spray**. Curl hair using a 3/4" curling iron. **Below Right:** Use a dime-sized amount of **Silky Sexy Hair Frizz Eliminator** to pull apart curls. This loosens and detangles curls while adding shine. Pin up hair at the nape of the neck, letting loose hair on sides and front fall forward. **Bottom:** Go casual: Apply **Big Sexy Hair Root Pump Volumizing Spray Mousse** into damp hair at the crown, prior to blow-drying. Lightly spray with **Straight Sexy Hair Smooth & Seal Anti-Frizz Spray** before setting hot rollers for long-lasting shine. Loosen curls with fingers, then spray with **Big Sexy Hair Spray & Play Volumizing Hairspray**.

sexy style

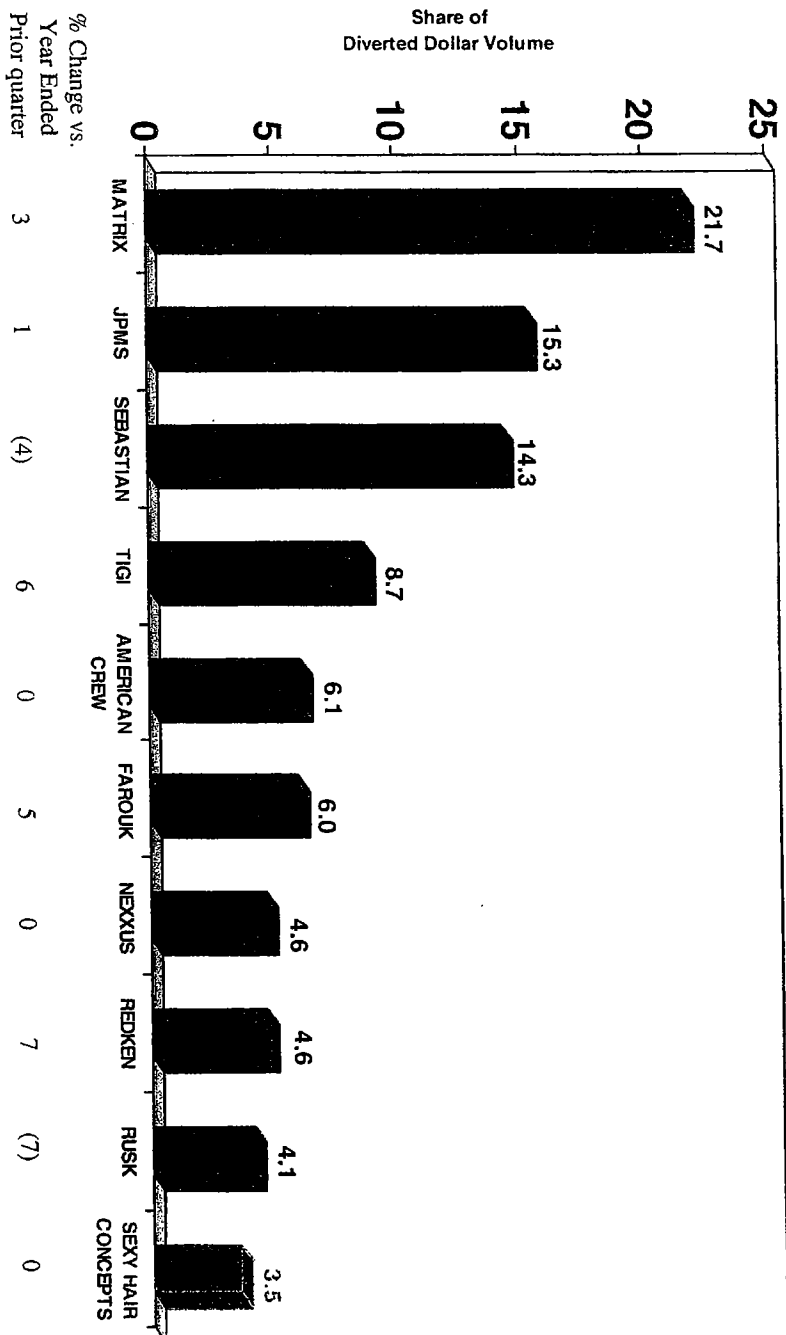
- 1. Big Sexy Hair Spray & Play, \$14.95.
- 2. Straight Sexy Hair Smooth & Seal Anti-Frizz Spray, \$17.50.
- 3. Big Sexy Lips, \$17.50.
- 4. Big Sexy Hair Root Pump Volumizing Spray Mousse, \$14.95.
- 5. Silky Sexy Hair Frizz Eliminator, \$18.95.
- 6. Curly Sexy Hair 24/7 Instant-Set Curling Spray, \$18.95.



Right: Kai applies her favorite product - Big Sexy Lips.



**TOP 10 DIVERTED MANUFACTURERS  
DOLLAR VOLUME - TOTAL U.S. - ALL OUTLETS  
ALL HAIR CARE  
Year Ended September 30, 2005**



**ACNielsen MARKET DECISIONS**

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a VNU business

SHNY 00289

DIVERTED BRAND SUMMARY AS OF SEPTEMBER 30, 2005  
TOTAL U.S.  
DOLLAR SALES VOLUME TREND

CATEGORY  
HAIR CARE

	DOLLAR SALES VOLUME								% NET CHANGE		PAST YEAR ACCU	% CHANGE VS PRIOR YEAR	SHARE OF DIVERTED VOLUME
	QTR IV 2003	QTR I 2004	QTR II 2004	YEAR AGO QTR III 2004	QTR IV 2004	QTR I 2005	QTR II 2005	CURRENT PERIOD QTR III 2005	PRIOR QTR	YEAR AGO			
SEBASTIAN	12,790,000	12,827,898	12,951,753	12,020,534	11,741,100	11,811,891	12,291,679	12,549,884	2.1	4.4	48,384,154	-4.3	14.3
SEXY HAIR CONCEPTS	2,043,026	2,482,539	2,506,847	2,611,534	2,817,279	2,884,571	3,016,283	3,152,282	4.5	20.7	11,870,386	23.1	3.5
SORBIE	48,273	29,022	18,269	8,912	13,911	13,744	6,871	2,242	-57.4	-74.8	36,769	-64.8	0.0
TIGI	6,849,607	5,905,729	6,281,465	6,230,465	6,025,782	6,538,362	7,618,901	9,107,316	19.5	46.2	29,290,361	15.9	8.7
WELLA	22,613	15,741	11,077	9,187	7,580	9,808	4,831	10,726	122.0	16.7	32,946	-43.8	0.0
ZOTOS CORE BRANDS	534,329	555,786	619,286	1,681,082	963,919	646,342	670,124	703,358	23.4	-58.2	2,872,743	-16.3	0.8
ZOTOS INTERNATIONAL	0	0	150	859	1,280	1,845	1,933	2,057	6.4	139.6	7,096	603.6	0.0
SMALL MANUFACTURERS	546,780	683,883	664,126	771,212	737,891	732,325	618,047	651,318	-10.5	-28.5	2,637,521	2.8	0.8
PRIVATE LABEL	400	128	29	29	53	0	0	0	-100.0	-100.0	53	-90.9	0.0
ALL OTHER MANUFACTURERS	7,138	3,480	3,899	2,619	669	523	128	0	-100.0	-100.0	1,321	-82.3	0.0

SHNY 00296

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: BOX TTAB FEE, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514, on the date indicated below.

By: Scotty Hulet - opai  
Date: 4/12/04

**BOX TTAB FEE**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Sexy Hair Concepts LLC,

Opposer,

v.

Leapfrog (UK) Limited

Applicant.

Opposition No. 91160206

**NOTICE OF OPPOSITION**

Honorable Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3514

04-14-2004  
U.S. Patent & TMO/TM Mail Rpt Dt. #22

Dear Madam:

In the matter of Trademark Application Serial No. 76/497,494 for the mark "DAMN SEXY HEAVENLY," filed February 10, 2003 and published for opposition in the Official Gazette on December 23, 2003 at page TM 213:

Sexy Hair Concepts LLC, a California limited liability company having a place of business at 9232 Eton Avenue, Chatsworth, California 91311 ("Opposer"), believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same. The grounds for opposition are as follows:

1. Leapfrog (UK) Limited, a United Kingdom corporation ("Applicant"), seeks to register "DAMN SEXY HEAVENLY" as a trademark for use in connection with, inter

PHL\_A #1846525 v2  
Matter No. 091032

SHINY 0556

alia, hair care preparations, namely shampoos, rinse, conditioners, lotions, hair creams, hair dyes, sprays, gels and mousses, as evidenced by the publication of said mark in the Official Gazette on December 23, 2003 at page TM 213.

2. The application herein opposed was filed March 14, 2003 on the basis of Section 44(e). Applicant claims no date earlier than March 14, 2003 for the purpose of claiming priority.

3. Opposer is and has been engaged in the development, manufacture and sale of hair care products, and related goods and has built a successful business in connection therewith.

4. Since at least as early as June 15, 1998, Opposer, itself and through its predecessor in interest, has used "SEXY" and "SEXY HAIR" as the dominant element of its name and marks for hair care preparations, including shampoo, conditioner, gels, sprays, color, dyes, rinses and mousses. Since at least as early as December 21, 1998, Opposer has used such mark in commerce in the United States for such goods.

5. Information about Opposer's business and products can be found at its website, [www.sexyhairconcepts.com](http://www.sexyhairconcepts.com).

6. Opposer has taken steps to protect the "SEXY HAIR" mark and has secured U.S. Trademark Registration No. 2,403,396 for such mark for hair care preparations as identified therein. Registration No. 2,403,396 is valid and subsisting. A copy of the pertinent information about such registration from the PTO database is attached as Exhibit A.

7. Since 1998, Opposer has taken steps to develop a family of "SEXY" marks for hair care preparations, including: "SEXY HAIR CONCEPTS," "HOT SEXY HIGHLIGHTS," "HEALTHY SEXY HAIR," "WILD SEXY HAIR," "FORMULAS BY ECOLY BIG SEXY HAIR," "BIG SEXY HAIR," "CURLY SEXY HAIR," "SHORT SEXY

HAIR,” and SEXY HAIR (Design), among others. Promotional materials showing the “SEXY” marks of Opposer are attached as Exhibit B.

8. Opposer has also secured U.S. Reg. No. 2,486,702 for the mark “SEXY HAIR (Design)” for hair care preparations; U.S. Reg. No. 2,553,996 for the mark “HOT SEXY HIGHLIGHTS” for hair care preparations; and U.S. Reg. No. 2,707,751 for the mark “WILD SEXY HAIR” for hair care preparations. The ‘702, ‘996, and ‘751 registrations are valid and subsisting. Copies of the pertinent information about such registrations from the PTO database are attached as Exhibit C-E.

9. Use of the “SEXY HAIR” mark by Opposer has been continuous and commercially significant.

10. Opposer has since prior to February 10, 2003 used “Sexy Hair Concepts” and “Sexy Hair” as trade names as well as marks in connection with its business, which includes some body care products as well as hair care products.

11. Opposer’s registered trademark “SEXY HAIR,” Opposer’s family of “SEXY” marks, and the “Sexy Hair” and “Sexy Hair Concepts” names are inherently distinctive as applied to Opposer’s products and business.

12. By virtue of Opposer’s continuous use in commerce of its registered “SEXY HAIR” trademark and its family of “SEXY” marks and the “Sexy Hair” and “Sexy Hair Concepts” names in connection with such goods and business, such goods and business have become favorably known to the relevant trade and public under such marks and names.

13. Because Opposer is the owner of U.S. trademark registrations for “SEXY HAIR,” “SEXY HAIR (Design),” “HOT SEXY HIGHLIGHTS,” and WILD SEXY HAIR, priority is not in issue.

14. In the application herein opposed, there are no restrictions on trade channels, so it must be assumed that the goods identified in the application will travel through all trade channels appropriate for goods of that type.

15. Applicant's mark is confusingly similar to Opposer's registered "SEXY HAIR" trademarks and also to the family of "SEXY" marks established by Opposer, and to Opposer's "Sexy Hair" and "Sexy Hair Concepts" trade names.

16. Each of Opposer's marks and its names, and Applicant's mark, employ the identical term—"SEXY," as the dominant or a dominant element.

17. The goods of Opposer and the goods of Applicant are essentially the same (hair care products), overlapping (body care products), or otherwise closely related.

18. Hair care products and body care products such as are sold by Opposer and as are identified in the application herein opposed are customarily marketed through the same and overlapping channels of trade.

19. The products marketed and sold under Opposer's registered "SEXY HAIR," "HOT SEXY HIGHLIGHTS," and WILD SEXY HAIR trademarks, Opposer's family of "SEXY" marks, and through Opposer's "Sexy Hair" and "Sexy Hair Concepts" business, and the products intended to be sold under Applicant's "DAMN SEXY HEAVENLY" mark, are such as would be sold to the same and to overlapping classes of purchasers.

20. Applicant's "DAMN SEXY HEAVENLY" trademark as applied to the goods identified in the application herein opposed so resembles Opposer's registered "SEXY HAIR" trademarks, Opposer's family of "SEXY" marks as applied to Opposer's products, and Opposer's "Sexy Hair" and "Sexy Hair Concepts" names as used in connection with Opposer's business, that it is likely to cause confusion, mistake, and/or deception.



21. If Applicant is permitted to register "DAMN SEXY HEAVENLY" for the goods set forth in the application, confusion of the relevant trade and public is likely to result, which will damage and injure Opposer.

22. On seeing Applicant's "DAMN SEXY HEAVENLY" mark used in connection with Applicant's products, purchasers and potential purchasers are likely to believe in error that such goods are offered by or in association with or under license from Opposer or that Opposer and Applicant are affiliated.

23. Any defect, objection to, or fault found with Applicant's goods sold under its mark "DAMN SEXY HEAVENLY" would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods and business.

24. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark. Such registration would be a source of damage and injury to Opposer and Opposer's customers.

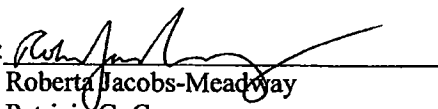
WHEREFORE, Sexy Hair Concepts LLC prays that registration of the mark of Application Serial No. 76/497,494 be refused and that this opposition be sustained.

A duplicate copy of this Notice of Opposition is enclosed herewith.

The required fee of \$300 may be charged to Deposit Account No. 02-0755 and any overpayment may be credited to this account.

Respectfully submitted,

Dated: 4/12/04

By:   
Roberta Jacobs-Meadway  
Patricia G. Cramer  
BALLARD SPAHR ANDREWS & INGERSOLL, LLP  
1735 Market Street, 51st Floor  
Philadelphia, Pennsylvania 19103-7599  
(215) 665-8500

ATTORNEYS FOR OPPOSER

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-04-12 10:02:57 ET

A

Serial Number: 75634213 Assignment Information

Registration Number: 2403396 Assignment Information

Mark (words only): SEXY HAIR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2000-11-14

Filing Date: 1999-02-05

Transformed into a National Application: No

Registration Date: 2000-11-14

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 2003-11-06

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

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1. Ecoly International, Inc.

**Address:**

Ecoly International, Inc.

9232 Eton Avenue

Chatsworth, CA 91311

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** California

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**GOODS AND/OR SERVICES**

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Hair care products for men, women and children, namely hair shampoos, hair conditioners, hair lotions, hair cremes, hair gels, hair sprays, hair color, hair dyes, hair rinses, hair mousse

SHINY 0561

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75634213>

4/12/2004

**International Class:** 003

**First Use Date:** 1998-06-15

**First Use in Commerce Date:** 1998-12-21

**Basis:** 1(a)

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "HAIR"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2000-11-14 - Registered - Principal Register

2000-08-22 - Published for opposition

2000-07-21 - Notice of publication

2000-06-03 - Approved for Pub - Principal Register (Initial exam)

1999-12-14 - Letter of suspension mailed

1999-10-18 - Communication received from applicant

1999-08-17 - Non-final action mailed

1999-08-04 - Case file assigned to examining attorney

1999-07-30 - Case file assigned to examining attorney

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**CONTACT INFORMATION**

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**Correspondent (Owner)**

Roberta Jacobs-Meadway (Attorney of record)

ROBERTA JACOBS-MEADWAY  
AKIN GUMP STRAUSS HAUER & FELD LLP  
ONE COMMERCE SQ STE 2200  
2005 MARKET ST  
PHILADELPHIA PA 19103

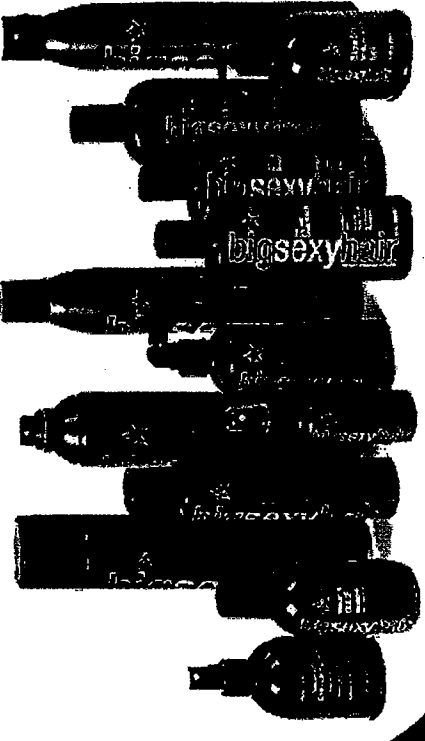
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SHINY 0562

big hair

PROPERTY OF MICHAEL O'ROURKE

Go ahead, touch it.



big sexy hair :

Specifically designed to add, support and enhance maximum fullness and body to the hair while maintaining moisture and protecting hair color from fading.

HOME | ABOUT | IN THE NEWS | NEW | PRODUCTS | WHERE TO BUY | FAQ | CONTACT

3.0

big sexy hair

3

short hair


PROPERTY OF MICHAEL O'ROURKE

LATEST NEWS

HOME | ABOUT | IN THE KITCHEN | NEW | PRODUCTS | WHERE TO BUY | FAQ | CONTACT

★ sexyhair

Go ahead, touch it.



**short sexy hair :**  
Offers dual action products specially made for short hair to achieve the ultimate stylish look. The products can be combined together to create a unique, individual style.  
**Short Sexy Hair**  
**New Additions >>**

SHINY 0564

curly hair

PROPERTY OF MICHAEL O'ROURKE

Go ahead, touch it.

curly sexy hair :

Specifically designed with innovative ingredients to create and support curls of all kinds.

SHINY 0565

4/12/2004

# straightsexyhair

Go ahead, touch it.



straight sexy hair :

Formulated to relax, temporarily straighten and protect hair from heat styling. These products also lock out humidity to keep hair straight, smooth and frizz-free all day.

HOME | ABOUT | IN THE NEWS | NEW → | PRODUCTS | WHERE TO GO | FAQ | CONTACT | **sexyhair** 3.0

LATEST NEWS

SHINY 0566

LATEST NEWS

Go ahead, touch it.

sexy

healthy sexy hair :

healthy sexy hair is the first-ever  
haircare line based on Soy protein.  
Soy delivers ultimate strength and  
moisture to rebuild the hair, restore  
its shiny, healthy appearance, and  
keep it looking great.

NOUVEAU | RECENT | IN THE NEWS | NEW | PRODUITS | WHERE TO BUY | PRO | CONTACT

sexyhair

3.0

for the Professional Stylist

SHINY 0567

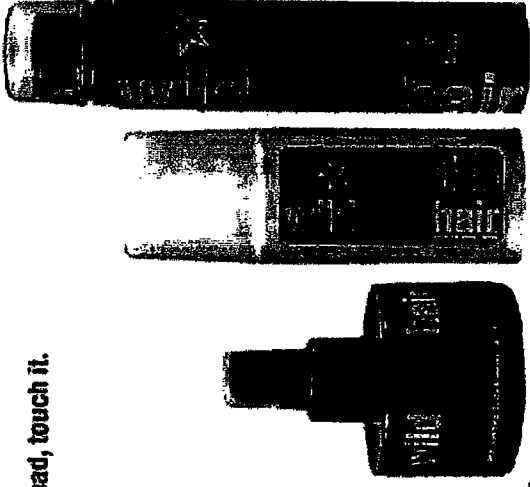


WILD

hair

PROPERTY OF MICHAEL O'ROURKE

Go ahead, touch it.



wild sexy hair :

Take a walk on the wild side.  
This new WILD line of products  
brings fun and style into one.

Take long, short, curly or straight  
hair from bland to wild instantly!

Metal Head  
METALLIC HOLDING GELS >>

HOME | ABOUT | IN THE NEWS | NEW → | PRODUCTS | WHERE TO BUY | FAQ | CONTACT

030

sexyhair

SHINY 0568

[illegible]

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-04-12 10:03:31 ET

Serial Number: 75751842 Assignment Information

Registration Number: 2486702 Assignment Information

Mark



(words only): SEXY HAIR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2001-09-11

Filing Date: 1999-07-15

Transformed into a National Application: No

Registration Date: 2001-09-11

Register: Principal

Law Office Assigned: LAW OFFICE 102

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 2003-11-05

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Ecoly International, Inc.

Address:

Ecoly International, Inc.  
9232 Eton Avenue

SHINY 0570

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=75751842>

4/12/2004

Chatsworth, CA 91311  
United States  
**Legal Entity Type:** Corporation  
**State or Country of Incorporation:** California

---

**GOODS AND/OR SERVICES**

---

hair care products for men, women and children, namely shampoos, conditioners, hair lotions, hair conditioning creams, hair gels, hair sprays, hair color, hair tint and hair mousse  
**International Class:** 003  
**First Use Date:** 1998-06-15  
**First Use in Commerce Date:** 1998-12-21

**Basis:** 1(a)

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "HAIR"

**Lining and Stippling:** THE MARK IS LINED FOR THE COLOR RED.

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2001-09-11 - Registered - Principal Register  
2001-06-19 - Published for opposition  
2001-06-06 - Notice of publication  
2001-01-23 - Approved for Pub - Principal Register (Initial exam)  
2000-07-05 - Communication received from applicant  
2000-07-05 - Communication received from applicant  
2000-06-07 - Communication received from applicant  
2000-01-20 - Non-final action mailed  
1999-12-15 - Case file assigned to examining attorney  
1999-12-07 - Case file assigned to examining attorney

SHINY 0571

**CONTACT INFORMATION**

---

**Correspondent (Owner)**

Roberta Jacobs-Meadway (Attorney of record)

ROBERTA JACOBS-MEADWAY  
AKIN, GUMP, STRAUSS, HAUER & FELD, LLP  
ONE COMMERCE SQUARE  
2005 MARKET STREET, 22ND FLOOR  
PHILADELPHIA, PA 19 103-7086

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SHINY 0572

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-04-12 10:03:55 ET

Serial Number: 76075306 Assignment Information

Registration Number: 2553996 Assignment Information

Mark (words only): HOT SEXY HIGHLIGHTS

Standard Character claim: No

Current Status: Registered.

Date of Status: 2002-03-26

Filing Date: 2000-06-22

Transformed into a National Application: No

Registration Date: 2002-03-26

Register: Principal

Law Office Assigned: LAW OFFICE 110

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -Warehouse (Newington)

Date In Location: 2003-11-05

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. Ecoly International, Inc.

**Address:**

Ecoly International, Inc.

9232 Eton Avenue

Chatsworth, CA 91311

United States

**Legal Entity Type:** Corporation

**State or Country of Incorporation:** California

---

**GOODS AND/OR SERVICES**

---

hair care products for men, women and children, namely, shampoos, conditioners, hair lotions, hair conditioning creams, hair gels, hair sprays, hair color, hair tint and hair mousse

SHINY 0573

<http://tarr.uspto.gov/servlet/tarr?regser=serial&entry=76075306>

4/12/2004

**International Class:** 003  
**First Use Date:** 2000-07-00  
**First Use in Commerce Date:** 2000-07-00

**Basis:** 1(a)

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "HIGHLIGHTS"

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2002-03-26 - Registered - Principal Register  
2001-08-31 - Allowed for Registration - Principal Register (SOU accepted)  
2001-08-08 - Statement of use processing complete  
2001-07-26 - Amendment to Use filed  
2001-06-19 - Notice of allowance - mailed  
2001-03-27 - Published for opposition  
2001-03-14 - Notice of publication  
2001-01-05 - Approved for Pub - Principal Register (Initial exam)  
2000-12-20 - Examiner's amendment mailed  
2000-12-04 - Case file assigned to examining attorney

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**CONTACT INFORMATION**

---

**Correspondent (Owner)**  
ROBERTA JACOBS-MEADWAY (Attorney of record)

ROBERTA JACOBS-MEADWAY  
BALLARD SPAHR ANDREWS & INGERSOLL LLP  
1735 MARKET STREET  
51ST FLOOR  
PHILADELPHIA PA 19103-7599

SHINY 0574

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Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2004-04-12 09:59:54 ET

Serial Number: 76260669 Assignment Information

Registration Number: 2707751 Assignment Information

Mark (words only): WILD SEXY HAIR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2003-04-15

Filing Date: 2001-05-22

Transformed into a National Application: No

Registration Date: 2003-04-15

Register: Principal

Law Office Assigned: LAW OFFICE 106

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 - Warehouse (Newington)

Date In Location: 2003-11-05

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. SEXY HAIR CONCEPTS, LLC

**Address:**

SEXY HAIR CONCEPTS, LLC

9232 ETON AVENUE

CHATSWORTH, CA 91311

United States

**Legal Entity Type:** Ltd Liab Co

**State or Country Where Organized:** California

---

**GOODS AND/OR SERVICES**

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hair care products for men, women, and children, namely hair shampoos, hair conditioners, hair lotions, hair cremes, hair gels, hair sprays, hair color, hair dyes, hair rinses, hair mousse

SHINY 0575

<http://tarr.uspto.gov/servlet/tarr?regser=registration&entry=2%2C707%2C751>

4/12/2004



**International Class:** 003

**First Use Date:** 2002-08-15

**First Use in Commerce Date:** 2002-08-15

**Basis:** 1(a)

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**ADDITIONAL INFORMATION**

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**Disclaimer:** "HAIR"

**Prior Registration Number(s):**  
2403396

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

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2003-04-15 - Registered - Principal Register  
2003-01-27 - Allowed for Registration - Principal Register (SOU accepted)  
2003-01-27 - Case file assigned to examining attorney  
2003-01-22 - Statement of use processing complete  
2003-01-22 - Extension 1 granted  
2002-10-09 - Amendment to Use filed  
2002-10-09 - Extension 1 filed  
2002-10-11 - PAPER RECEIVED  
2002-04-16 - Notice of allowance - mailed  
2002-01-22 - Published for opposition  
2002-01-02 - Notice of publication  
2001-09-06 - Approved for Pub - Principal Register (Initial exam)  
2001-08-27 - Examiner's amendment mailed  
2001-08-22 - Case file assigned to examining attorney

---

**CONTACT INFORMATION**

SHINY 0576

---

**Correspondent (Owner)**

RICHARD E PEIRCE (Attorney of record)

RICHARD E PEIRCE  
BALLARD SPAHR ANDREWS & INGERSOLL LLP  
1735 MARKET ST 51ST FL  
PHILADLEPHIA PA 19103-7599

**Phone Number:** 215-665-8500

**Fax Number:** 215-864-8999

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SHINY 0577

TTAB

LAW OFFICES

**BALLARD SPAHR ANDREWS & INGERSOLL, LLP**

1735 MARKET STREET, 51ST FLOOR  
PHILADELPHIA, PENNSYLVANIA 19103-7599

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WILMINGTON, DE

ROBERTA JACOBS-MEADWAY

DIRECT DIAL: 215-864-8201

PERSONAL FAX: 215-864-9950

JACOBSMEADWAY@BALLARDSPAHR.COM

April 12, 2004



Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

04-14-2004

U.S. Patent & TMO/TM Mail Rpt Dt. #22

Dear Madam:

We are enclosing herewith the following documents set forth below, which are to be filed in the Patent and Trademark Office.

Please charge all government filing fees with respect to the enclosed documents to our Miscellaneous Deposit Account 02-0755.

Please charge any additional fees or credit overpayment to Miscellaneous Deposit Account 02-0755.

Respectfully submitted,

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

  
ROBERTA JACOBS-MEADWAY

cc: Accounting  
IP Docketing Coordinator  
Enclosures: Notice of Opposition  
Opposer: Sexy Hair Concepts, Inc.  
Applicant: Leapfrog (UK) Limited  
Fee: \$300.00  
International Class: 3  
Mark: DAMN SEXY HEAVENLY  
Serial No.: 76/497,494  
Attorney Docket No.: 091032  
BOX TTAB - FEE

PHL\_A #1868603 v1

SHINY 0578

TTAB

BOX TTAB – NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

SEXY HAIR CONCEPTS, LLC

Opposer,

v.

LEAPFROG (UK) LIMITED

Applicant.

Serial No. 76/497,494

160206

AMENDMENT ON CONSENT AND  
CONTINGENT WITHDRAWAL OF NOTICE OF OPPOSITION

Pursuant to an Agreement between the parties, Applicant hereby requests that the description of goods in Application Serial No. 76/497,494 for DAMN SEXY HEAVENLY be amended, without prejudice, as follows:

"Perfumes; cosmetics; semi-liquid and powder makeup, foundation, concealer, eye shadow, eye liner, mascara, lipstick, lip liner, lip glosses, rouge and blusher and carrying case thereof; soaps, shampoos, colognes, talcum powder, face creams, face packs, skin lotions, lip creams, makeup base, skin cleansing preparations, body washes, hand creams, foot creams, hand balms, foot balms, massage balms, massage creams, face powder, bath powder, eyebrow pencils, nail care preparations, namely, nail color, nail polish, nail polish removers and cuticle coat, bath salts, bubble baths and bath oils, not for medical purposes, shower gels, perfumery, deodorants, anti-perspirants, suntan and sun screening preparations, shaving preparations, toilet waters, eau de colognes, body sprays, massage oils and aromatherapy oils, incense sticks, incense cones, incense sachets, incense sprays, mouth washes".

Please delete from the description of the goods the following: "hair care preparations, namely, shampoos, rinse, conditioners, lotions, hair creams, hair dyes, sprays, gels and mousses," so that the description of goods reads as set forth above.

It is submitted that the amendment is proper as it is limiting in nature.

05-17-2004

U.S. Patent &amp; TMO/TM Mail Rpt Dt. #72

164970v1

SHINY 0579

Contingent upon the acceptance of the above amended description, Opposer hereby withdraws its opposition to registration of the mark of Application Serial No. 76/497,494 for DAMN SEXY HEAVENLY.

Respectfully submitted,

By: 

Sanjiv D. Sarwate  
Pattishall, McAuliffe, Newbury  
Hilliard & Geraldson LLP  
311 S. Wacker Drive, Suite 5000  
Chicago, IL 60606  
(312) 554-8000

Attorneys for Applicant

By: 

Roberta Jacobs-Meadway  
Ballard Spahr Andrews &  
Ingersoll, LLP  
1735 Market Street, 51<sup>st</sup> Fl.  
Philadelphia, PA 19103  
(215) 665-8500

Attorneys for Opposer

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO THE COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VA 22202-3514 ON THE DATE INDICATED BELOW

By: 

Date: 5/14/04

dmd

UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Trademark Trial and Appeal Board  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Mailed: June 15, 2004

Opposition No. 91160206

SEXY HAIR CONCEPTS LLC

v.

Leapfrog (UK) Limited

**David Mermelstein, Attorney:**

On May 17, 2004, the parties filed applicant's proposed amendment to its application Serial No. 76497494, with opposer's consent, and opposer's withdrawal of the opposition, contingent upon entry of the amendment.

By the proposed amendment applicant seeks to change the identification of goods to the following:

Perfumes; cosmetics; semi-liquid and powder makeup, foundation, concealer, eye shadow, eye liner, mascara, lipstick, lip liner, lip glosses, rouge and blusher and carrying case thereof; soaps, shampoos, colognes, talcum powder, face creams, face packs, skin lotions, lip creams, makeup base, skin cleansing preparations, body washes, hand creams, foot creams, hand balms, foot balms, massage balms, massage creams, face powder, bath powder, eyebrow pencils, nail care preparations, namely, nail color, nail polish, nail polish removers and cuticle coat, bath salts, bubble baths and bath oils, not for medical purposes, shower gels, perfumery, deodorants, anti-perspirants, suntan and sun screening preparations, shaving preparations, toilet water, eau de colognes, body sprays, massage oils and aromatherapy oils, incense sticks, incense cones, incense sachets, incense sprays, mouth washes in International Class 03.

Inasmuch as the amendment is clearly limiting in nature as required by Trademark Rule 2.71(b), and because opposer

SHINY 0581

**Opposition No. 91160206**

consents thereto, it is approved and entered. See, Trademark Rule 2.133(a).

The contingency in opposer's withdrawal having now been met, the opposition is dismissed in accordance with the agreement between the parties.

***By the Trademark Trial  
and Appeal Board***

SHINY 0582

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING  
TRANSMITTED ELECTRONICALLY TO THE COMMISSIONER FOR  
TRADEMARKS - <http://esita.uspto.gov/filing-type.jsp>

By: *David L. Paman*

DATE: 9/28/05

**BOX TTAB FEE**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SEXY HAIR CONCEPTS LLC,

Opposer,

v.

WTFN, INC.

Applicant.

Opposition No. 91166718

**NOTICE OF OPPOSITION**

Honorable Commissioner for Trademarks  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Dear Madam:

In the matter of Trademark Application Serial No. 78/422,467 for the mark "SEXY BODY FOAM" filed May 20, 2004 and published for opposition in the Official Gazette on June 21, 2005 at page TM 284.

Sexy Hair Concepts LLC, a California limited liability company having a place of business at 9232 Eton Avenue, Chatsworth, California 91311 ("Opposer"), believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same. The grounds for opposition are as follows:

1. WTFN, Inc., a California corporation ("Applicant"), seeks to register "SEXY BODY FOAM" as a trademark for use in connection with flavored body preparation, namely flavored body foam used to aid sexual relations, as evidenced by the publication of said mark in the Official Gazette on June 21, 2005 at page TM 284.

DMEAST #8826200 v2

Matter No. 046493

SHINY 0583



2. The application herein opposed was filed May 20, 2004 on the basis of intent to use. Applicant claims no date earlier than May 20, 2004 for the purpose of claiming priority.

3. Opposer is and has been engaged in the development, manufacture and sale of hair care products, and bath and body products, and has built a successful business in connection therewith.

4. Since at least as early as June 15, 1998, Opposer, itself and through its predecessor in interest (collectively, "Opposer"), has used "SEXY" as the dominant element of its names and marks for hair care preparations, and bath and body products including skin care products. Since at least as early as December 21, 1998, Opposer has used such names and marks in commerce in the United States.

5. Since at least as early as June 15, 1998, Opposer has continuously used "SEXY HAIR" as the dominant element of names and marks for hair care preparations and related products, including skin care products.

6. Opposer has taken steps to protect the "SEXY HAIR" mark and has secured U.S. Trademark Registration No. 2,403,396 for such mark for the goods identified therein. Registration No. 2,403,396 is valid and subsisting.

7. Since 1998, Opposer has taken steps to develop a family of "SEXY" marks for hair care preparations, and bath and body products, including: "SEXY HAIR CONCEPTS," "BIG SEXY HAIR," and "SEXY BATH & BODY" among others.

8. Opposer has secured U.S. Reg. No. 2,823,999 for the mark "SEXY BATH & BODY."

9. Use of the "SEXY" and "SEXY HAIR" names and marks by Opposer has been continuous and commercially significant since 1998.

10. Opposer has since prior to May 20, 2004 used "Sexy Hair Concepts" and "Sexy Hair" as trade names as well as marks in connection with its business, which includes skin care products such as liquid body wash and moisturizing lotions, in addition to hair care products.

11. Opposer's registered trademarks "SEXY HAIR" and "SEXY BATH & BODY," Opposer's family of "SEXY" marks, and the "Sexy Hair" and "Sexy Hair Concepts" names are inherently distinctive as applied to Opposer's products and business.

12. By virtue of Opposer's continuous use in commerce of its marks and names in connection with its goods and business, such goods and business have become favorably known to the relevant trade and public under such marks and names.

13. As Opposer is the owner of U.S. trademark registrations for "SEXY HAIR" and "SEXY BATH & BODY," priority is not in issue.

14. In the application herein opposed, there are no restrictions on trade channels, so it must be assumed that the goods identified in the application will travel through all trade channels appropriate for goods of that type.

15. Applicant's mark is confusingly similar to Opposer's registered trademarks and also to the family of "SEXY" marks established by Opposer, and to Opposer's "Sexy Hair" and "Sexy Hair Concepts" trade names.

16. Each of Opposer's marks and names, and Applicant's mark, employ the identical term—"SEXY," as the dominant or a dominant element. Opposer's "SEXY BATH & BODY" mark and Applicant's "SEXY BODY FOAM" mark are even more similar, each beginning with the distinctive term "SEXY" and having after the descriptive term "BODY" and differing only in the addition of non-distinctive wording: FOAM, which is generic, and BATH.

17. The goods of Opposer and the goods of Applicant are closely related.